

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA

MAR 02 2020

COMPLAINT UNDER CIVIL RIGHTS ACT 42 U.S.C. §1983

BY: JUDITH DUDLEY, CLERK  
*AS George*Action Number 7-20CV 141

Please fill out this complaint form completely. The court needs the information requested in order to assure that your complaint is processed as quickly as possible and that all your claims are addressed. Please print/write legibly or type.

## I. PARTIES

## A. Plaintiff:

1. (a) Melissa Faye Atkins (b) 1070682(inmate number)  
(c) Fluvanna Correctional Center  
Building 2-C 111  
P.O. Box 1000  
Troy, VA 22974

Plaintiff must keep the Clerk of the Court notified of any change of address due to transfer or release. If Plaintiff fails to keep the clerk informed of such changes, this action may be dismissed.

## B. Defendant(s):

Plaintiff is advised that only persons acting under color of state law are proper defendants under section 1983. The Commonwealth of Virginia is immune under the Eleventh Amendment. Private parties such as attorneys and other inmates may not be sued under section 1983. In addition, liability under section 1983 requires personal action by the defendant that caused you harm. Normally, the Director of the Department of Corrections, wardens and sheriffs are not liable under section 1983 just because they supervise persons who may have violated your rights. These persons are liable only if they were personally involved in the alleged deprivation. In addition, prisons, jails and departments within an institution are not persons under section 1983.

1. (a) R. Bolden (b) Office Service Specialist  
(c) Fluvanna Correctional Center  
P.O. Box 1000  
Troy, VA 22974
2. (a) Eric Aldridge (b) Warden  
(c) Fluvanna Correctional Center  
P.O. Box 1000  
Troy, VA 22974
3. (a) J. Kendrick (b) Mailroom Clerk  
(c) Fluvanna Correctional Center  
P.O. Box 1000  
Troy, VA 22974

If there are additional defendants, please list them on a separate sheet of paper. Provide all identifying information for each defendant named.

Plaintiff MUST provide an address for defendant(s) in order for the court to serve the complaint. If Plaintiff does not provide an address for a defendant, that person may be dismissed as a party to this action.

In addition, Plaintiff MUST provide a copy of the completed complaint and any attachments for EACH defendant named.

## II. PREVIOUS LAWSUITS

A. Have you ever begun other lawsuits in any state or federal court relating to your imprisonment? Yes [ ] No [X]

B. If your answer to A is YES: You must describe any lawsuit, whether currently pending or closed, in the space below. [If there is more than one lawsuit, you must describe each lawsuit on another sheet of paper, using the same outline, and attach hereto.]

1. Parties to previous lawsuit:

Plaintiff: \_\_\_\_\_

Defendant: \_\_\_\_\_

2. Court [if federal court, name the district; if state court, name the county] : \_\_\_\_\_

3. Date lawsuit filed: \_\_\_\_\_

4. Docket number: \_\_\_\_\_

5. Name of Judge to whom case was assigned: \_\_\_\_\_

6. Disposition [was case dismissed? Appealed? Is it still pending? What relief was granted, if any?]: \_\_\_\_\_

## III. GRIEVANCE PROCEDURE

a. At what institution did the events concerning your current complaint take place? Fluvanna Correctional Center for Women

b. Does the institution listed in A have a grievance procedure?

Yes [X] No [ ]

c. If your answer to B is Yes:

1. Did you file a grievance based on this complaint?

Yes [X] No [ ]

2. If so, where and when: FCCW, 06/13/2018

3. What was the result? It was founded because policy was violated, yet I received no resolution because I still missed opportunity and a deadline that cannot be recovered due to FCCW's failure to issue my legal mail in a timely manner. This opportunity involved free assistance from a legal firm regarding my early release, with a deadline of the 25th, past the date I received it. Due to FCCW's actions, I endured irreparable damage.

4. Did you appeal? Yes [X] No [ ]

5. Result of appeal: Upheld decision of Level 1 respondent.

d. If there was no prison grievance procedure in the institution, did you complain to prison authorities? Yes [ ] No [ ]

If your answer is yes, what steps did you take? \_\_\_\_\_

e. If your answer is NO, explain why you did not submit your complaint to the prison authorities. \_\_\_\_\_

## IV. STATEMENT OF THE CLAIM

[State here as briefly as possible the facts of your case. Describe how each defendant is involved and how you were harmed by their actions. Also include the names of any other persons involved, dates and places of events. You may cite constitutional amendments you allege were violated, but do not give any legal arguments or cite any cases or statutes.]

If you intend to allege several related claims, number and set forth each claim in a separate paragraph. (Attach additional sheets if necessary.)  
I went on transportation on 05/16/18, returning the same day at 7 PM, at that

time I gave the C/O in the control bubble my trip pass and was issued my mail. It was not until 05/31/18 that Lt. Bazemore informed me that J. Kendrick from the mail room had called to ask if I'd returned from court. That same night I was issued my legal mail that was received at FCCW on 5/16/18 and held with no attempts being made to issue it to me except the initial date it was received. This violates IOP 803.1 as well as it blatantly violates my constitutional right of access to the court. (Lewis v. Casey)

OSS Bolden tried to then place blame on me for not notifying mailroom of my transport. #1- I didn't know I would receive legal mail on that date nor #2 why would I write an IMS advising of my return when I left and returned the same date? My regular mail wasn't interrupted so why did it take 2 weeks for me to receive my time-sensitive legal mail which caused me to miss a filing deadline that cannot be recovered. I suffered because of the incompetence of FCCW's staff and Warden Aldridge applied an administrative remedy by addressing Mailroom staff and "implementing a new procedure to prevent this type of issue in the future" does nothing to rectify my personal loss incurred by FCCW's failure. I should not have to suffer because of staff incompetence. I was not at court and there is no reason it should have taken this long to receive my legal mail.

## V. RELIEF

I understand that in a section 1983 action the Court cannot change my sentence, release me from custody, or restore good time. I understand I should file a petition for a writ of habeas corpus if I desire this type of relief. \_\_\_\_\_[please initial]

The Plaintiff wants the Court to:

X award money damages in the amount of \$75,000.00  
X grant injunctive relief by Issue legal mail immediately with  
justification for mail not being delivered the same day as arrival.  
other: \_\_\_\_\_

## VI. PLACES OF INCARCERATION

Please list the institutions at which you were incarcerated during the

last six months. If you were transferred during this period, list the date(s) of transfer. Provide an address for each institution.

Fluvanna Correctional Center for Women, P.O. Box 1000, Troy, VA 22974-1000

## VII. CONSENT

CONSENT TO TRIAL BY A MAGISTRATE JUDGE: The parties are advised of their right, pursuant to 28 U.S.C. § 636(c), to have a U.S. Magistrate Judge preside over a trial, with appeal to the U.S. Court of Appeals for the Fourth Circuit.

Do you consent to proceed before a U.S. Magistrate Judge:

Yes [X] No [ ]. You may consent at any time; however, any early consent is encouraged.

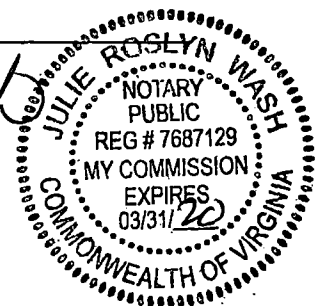
## VIII. SIGNATURE

If there is more than one plaintiff, each plaintiff must sign for himself or herself.

Signed this 24<sup>th</sup> day of February, 2020.

Plaintiff Melissa Faye Atkins

*Julie Roslyn Wash*  
24 Feb. 2020



Melissa F. Atkins # 1070682  
Fluvanna Correctional Center  
For Women Bldg 2C-1113  
P.O. Box 1000  
Troy, Va. 22974-1000

United States District Court  
Western District of Virginia  
Office of the clerk  
210 Franklin Road, Suite 540  
Roanoke, Va. 24011-2208

